

**CITY OF DELTONA, FLORIDA  
REGULAR CITY COMMISSION MEETING  
MONDAY, MARCH 17, 2014**

A Regular Meeting of the Deltona City Commission was held on Monday, March 17, 2014 at the City Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

**1. CALL TO ORDER:**

The meeting was called to order at 6:30 p.m. by Mayor Masiarczyk.

**2. ROLL CALL:**

Mayor	John Masiarczyk	Present
Vice Mayor	Heidi Herzberg	Present
Commissioner	Webster Barnaby	Present
Commissioner	Zenaida Denizac	Present
Commissioner	Fred Lowry	Present
Commissioner	Chris Nabicht	Present
Commissioner	Nancy Schleicher	Present
City Manager	Dave Denny	Present
City Attorney	Becky Vose	Present
City Clerk	Joyce Raftery	Present

Also present: Public Works/Deltona Water Director Gerald Chancellor; Planning and Development Services Director Chris Bowley; Finance Director Robert Clinger; Economic Development Manager Jerry Mayes; Deputy City Manager Dale Baker; Deputy Fire Chief Russell Rafferty; and VCSO Captain Dave Brannon.

**3. INVOCATION AND PLEDGE TO THE FLAG:**

Invocation Presented by Commissioner Barnaby.

The National Anthem was sung by the musical group Harmony.

**4. APPROVAL OF MINUTES & AGENDA:**

**A. Minutes:**

**1. Approval of Minutes – Regular City Commission Meeting of March 3, 2014.**

**Motion by Commissioner Lowry, seconded by Vice Mayor Herzberg to approve the minutes of the Regular City Commission Meeting of March 3, 2014.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

**B. Additions or Deletions to Agenda:**

**5. PRESENTATIONS/AWARDS/REPORTS:**

**A. Recognition to promote Deltona talent attendance at local shows and performances.**

Mayor Masiarczyk recognized Kelsie Geertgens who sang an opera piece from “O Mio Bambino” at a recent talent show held at Deltona High School, encouraged the talented youth of Deltona to participate, and parents and residents to attend shows and performances whenever possible, .

**B. Proclamation – Boys and Girls Club Week – March 23 through March 29, 2014. Certificate of Recognition to Deanne James, Unit Director, Harris Saxon Club (Professional of the Year) and Shane Smith (Youth of the Year).**

The Commission presented a Proclamation to the Volusia/Flagler Counties Boys and Girls Club CPO Joe Sullivan in recognition of Boys and Girls Club Week, and presented Certificates of Recognition to Deanne James, Unit Director of the Harris Saxon Club for “Professional of the Year”, and to Shane Smith for being selected as the Boys and Girls Clubs of Volusia/Flagler Counties’ “Youth of the Year”.

**C. Annual Audit Presentation – Comprehensive Annual Financial Report for the Year Ended September 30, 2013.**

Mark White and Laurie Walker, members of the Deltona audit team discussed the primary scope of a financial audit, defined auditing standards, and presented the highlights of the City of Deltona Comprehensive Annual Financial Report (CAFR) for the year ended September 30, 2013.

The Commission and the audit team also discussed the Governmental Accounting Standards Board’s (GASB) new accounting pronouncements; GASB statements Nos. 62 and 63 which became effective in 2014, and that the City was able to implement them, GASB No. 65 which comes out in 2014 that changes geography and terminology, and removes some old bond issuance cost standards, two (2) pension standards, GASB No. 67 goes into effect in 2014 and GASB No. 68 which goes into effect in 2015. GASB No. 67 deals with financial reporting by the pension plans, and GASB No. 68 involves employer accounting and reporting for pension plans, which requires all local governments that have defined benefit pension plans to put the unfunded pension plan liability on the balance sheet as a liability to the City instead of just being annotated in the footnotes. The projected Firefighter Pension Plan unfunded liability for next year’s budget being in the neighborhood of \$5 million dollars, the current actuarial report, the new GASB accounting standards as they relate to pension plans, assets and market changes, the possible effect of the new GASB standard No. 68 on a City’s credit rating, effects on an enterprise fund, debt service coverage ratios, the state of Deltona’s reserves being in very good financial condition, and the City being in very good financial accounting condition. The Commission thanked the Finance Department, Finance Director, and City Manager for the good accounting methods, and financial management.

**Motion by Commissioner Nabicht, seconded by Commissioner Schleicher to accept the City of Deltona’s *Comprehensive Annual Financial Report (CAFR)* for the fiscal year ended September 30, 2013.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

**6. PUBLIC FORUM – Citizen comments for items not on the agenda. None.**

Mayor Masiarczyk recognized and thanked County Councilwoman Joyce Cusack for attending the Deltona City Commission meeting.

**7. CONSENT AGENDA:** None.

**8. ORDINANCES AND PUBLIC HEARINGS:**

**A. Public Hearing - Ordinance No. 02-2014, Zoning Map Amendment to change the Zoning Designation from Mixed Planned Unit Development (MPUD) for three lots to the Saxon Sterling Silver Business Planned Unit Development (BPUD).**

Mayor Masiarczyk stated that staff has requested additional time to review Agenda Item 8-A and he requested a motion to table Item 8-A to time certain to April 7, 2014. He stated the Commission would hear comments from anyone that could not attend the April 7, 2014 Regular Commission meeting.

Commission Denizac asked Mrs. Vose if it was legal to take public comments on an agenda item that is being tabled, and Mrs. Vose replied "yes", from individuals who cannot make the next hearing.

Mayor Masiarczyk opened the public hearing to anyone who could not attend the April 7, 2014 Regular Commission meeting.

a) Theresa Brazee, 1057 Platinum Court, stated that Wal-Mart representatives said they were approved to build in the Saxon Sterling neighborhood, she was concerned about the lack of notice, a sign advertising the upcoming store was posted on the lot which Wal-Mart representatives apologized for the administrative and marketing mistakes, Wal-Mart's representative was very condescending at the last meeting she attended, a hospital in the area would be great for job seekers, and she is against the Wal-Mart being built in the Saxon Sterling Silver residential area.

Mayor Masiarczyk closed the public hearing.

**Motion by Commissioner Schleicher, seconded by Vice Mayor Herzberg to table Item 8-A to time certain to April 7, 2014.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

Mayor Masiarczyk allowed a public comment on a separate issue from a resident who missed the Public Comment portion of the meeting.

a) Steven Mingey, 1310 Broken Pine Road, stated that he wanted to address an issue that effects approximately 400 households, he lives outside of the Deltona City limits, is a single income family, being affected by the new outside of the City water surcharge, his water bill being higher than both his electric bill and his daughter's college savings fund, and he requested a re-examination of the surcharge to try and relieve the financial burden on families in need and to look at future plans on how to curb water costs.

**B. Public Hearing – Resolution No. 2014-02, declaring certain real property of the City of Deltona as surplus and authorizing the sale or disposal of such property.**

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

**Motion by Commissioner Lowry, seconded by Commissioner Nabicht to adopt Resolution No. 2014-02 declaring certain real property of the City as surplus and authorizing the sale or disposal of such property.**

Mayor Masiarczyk read the title of Resolution No. 2014-02.

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, DECLARING CERTAIN REAL PROPERTY OF THE CITY KNOWN AS A PORTION OF LAKE DAVID, AS SURPLUS AND AUTHORIZING THE SALE OR DISPOSAL OF SUCH PROPERTY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

Resolution No. 2014-02 was adopted at 7:19 p.m.

**9. OLD BUSINESS:** None.

**10. NEW BUSINESS:**

**A. Consideration of request from THR Florida LP for a reduction of fine from \$37,100.00 assessed pursuant to Special Magistrate Case DEL-13-088 and DEL-13-090.**

Building and Enforcement Services Director Dale Baker introduced Sean Mills attorney for THR Florida LP and provided an overview of the property violations which are for the contractor failing to pull the required permits. He stated the owners have purchased approximately 124 homes in Deltona, many of which were foreclosed homes, which they purchased, cleaned, and made improvements to. He stated there are few violations left open on any of the homes owned by THR Florida LP, and the owners seem to be very responsible. Special Magistrate Cino recommended reducing the fine to \$1,000 dollars per case which would cover the City's expenses.

The Commission and staff discussed whether or not THR is a responsible property owner, the owners being noticed but not appearing, THR being a business and not a private home owner, continual requests coming before the Commission for a reduction in fines, the Commission enforcing fines that will make owners think twice before violating an ordinance, when the THR attorney was retained, a fine of \$1,000 dollars per case not covering staff costs as it pertains to the violations and not sending a strong enough message to the property owners, the impact on neighborhoods when homes are not taken care of, not supporting a fine reduction down to \$1,000 dollars, the length of time the fines were established, the property owner being responsible and wanting to do things the right way but the contractor not pulling permits, prior discussions about revamping the City's notification process when a home goes into violation, the positive aspects of THR purchasing 124 homes in Deltona and bringing them into compliance, the purpose of Code Enforcement enforcing compliance, not being a revenue source for the City but, should cover the City's expenses, imposing a \$37,000 dollar fine not benefiting the City, having established policies

and not deviating from them, property owners adhering to the fine's time limits, and acknowledging responsible business owners who try to clean up the dilapidated homes in Deltona.

**Motion by Commissioner Barnaby, seconded by Vice Mayor Herzberg to approve the request of THR Florida LP for a reduction of the fine concerning Case No. DEL-13-088 and DEL-13-090 for the property located at 1202 Voyager Street, Deltona, Florida, to the sum of \$2,000.00 to be paid within 30 days (April 17, 2014) and pay all Municipal Liens on any other property owned in the City of Deltona or the fine reverts back to the original amount.**

Commissioner Denizac asked about any other violations on property that THR owns, and Mr. Baker replied that most of the other violations were tenant related, Code Enforcement policy is to deal with, and educate the violators, so property owners usually are not even notified when it is a tenant violation. He stated that the property manager is very attentive when he is made aware of a tenant violation and has gone as far as to give one continual violator a seven (7) day eviction notice.

Mayor Masiarczyk asked if THR owned the home when the violations occurred, and Mr. Baker replied "yes".

Mayor Masiarczyk opened and closed the public hearing as there were no public comments

**Motion failed with members voting as follows:**

<b>Commissioner Barnaby</b>	<b>For</b>
<b>Commissioner Denizac</b>	<b>Against</b>
<b>Commissioner Lowry</b>	<b>Against</b>
<b>Commissioner Nabicht</b>	<b>Against</b>
<b>Commissioner Schleicher</b>	<b>Against</b>
<b>Vice Mayor Herzberg</b>	<b>For</b>
<b>Mayor Masiarczyk</b>	<b>Against</b>

**Motion by Commissioner Nabicht to not grant a reduction of fine for THR Florida LP concerning Case No. DEL-13-088 and DEL-13-090 for the property located at 1202 Voyager Street, Deltona, Florida.**

**Motion failed for lack of a second.**

**Motion by Mayor Masiarczyk, seconded by Commissioner Schleicher to grant a fine reduction for THR Florida LP concerning Case No. DEL-13-088 and Case No. DEL-13-090 for the property located at 1202 Voyager Street, Deltona, Florida, to the sum of \$5,000.00 per violation for a total of \$10,000, to be paid within 30 days (April 17, 2014) and pay all Municipal Liens on any other property owned in the City of Deltona or the fine reverts back to the original amount.**

Commissioner Barnaby asked for the motion to be read again, and Deputy City Clerk Mitch Honaker reread the motion.

Vice Mayor Herzberg asked Mayor Masiarczyk if the motion was for \$5,000 per violation or for a total fine of \$5,000 dollars, and Mayor Masiarczyk replied that his motion was for \$5,000 per violation for a total of \$10,000 dollars.

**Motion carried with members voting as follows:**

<b>Commissioner Barnaby</b>	<b>For</b>
<b>Commissioner Denizac</b>	<b>For</b>
<b>Commissioner Lowry</b>	<b>For</b>
<b>Commissioner Nabicht</b>	<b>Against</b>
<b>Commissioner Schleicher</b>	<b>For</b>
<b>Vice Mayor Herzberg</b>	<b>Against</b>
<b>Mayor Masiarczyk</b>	<b>For</b>

**B. Request for the abandonment of two easements on SR 415.**

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

**Motion by Commissioner Schleicher, seconded by Commissioner Lowry to approve the abandonment of said easements as they are no longer required, necessary or useful to the interests of the City and the public for the use for which it was originally granted.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

**C. Request for appointment of a City representative to the Tourist Development Council (TDC) for a four year term and the appointment of an alternate City representative.**

Mayor Masiarczyk stated that the Volusia County Attorney answered the City's question concerning the State legislation that allows Tourist Development tax dollars to go to the largest City in Volusia County as it relates to the 3% tax disbursement and Deltona being the largest City in Volusia County, that he was not satisfied with the County's answer, he made the Tourist Development Council (TDC) aware of the situation and he asked that it provide a play by play answer on the County's position on the subject, and the TDC has assured him it will look into it and provide a report to everyone at the next TDC meeting.

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

**Motion by Vice Mayor Herzberg, seconded by Commissioner Denizac to appoint Mayor John Masiarczyk as the City's representative to the Tourist Development Council (TDC) for a term to expire on March 31, 2018 and appoint Commissioner Chris Nabicht as the City's alternate TDC representative.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

**D. Consideration of appointment or re-appointment of four (4) members to the City's Planning and Zoning Board.**

Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

**Motion by Vice Mayor Herzberg, seconded by Commissioner Denizac to confirm the appointment of Adam Walosik (Commissioner Lowry's appointment), Noble Olasimbo (Commissioner Schleicher's appointment), Tom Burbank (Commissioner Nabicht's appointment), and David McKnight (Vice Mayor Herzberg's appointment) to the Planning and Zoning Board for a term to expire on March 15, 2017.**

**Motion carried unanimously with members voting as follows: Commissioner Barnaby, For; Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For; Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

**11. CITY ATTORNEY COMMENTS:** None.

**12. ACTING CITY MANAGER COMMENTS:**

**A. Lobbyist Update:**

Mr. Denny stated House Bill (HB) 813, titled the "Ratepayer Representation Act" which allows authorized counties to take over municipalities utilities once the municipalities franchise expires, the bill prevents municipalities from extending services to the unincorporated parts of the County without the express consent of the board of County Commissioners, it also limits the rate a municipality can charge outside the City boundary customers, the proposed rate for outside the municipal boundaries customer would have to be approved by the Florida Public Service Commission (PSC), and doing a rate increase being a costly and timely ordeal. He has talked to the City's lobbyist, the proposed bill goes before the House Energy and Utilities Sub-Committee on April 18, 2014, the lobbyist thinks it will go through the sub-committee but will not gain any strength after that, and he will keep Deltona informed on the bill.

**After discussion, the Commission concurred to inform the lobbyist that the Deltona Commission strongly opposes HB 813.**

Mr. Denny discussed HB 1313, which is a bill designed to protect the outstanding Florida springs in addition to the first magnitude springs, of which, there are 32 of those springs, currently Blue Springs is not on the list, the intent of the bill is to remove the nutrients from the ground water in the entire spring shed of any of the Florida outstanding springs, reduce the nitrogen content to three (3) milligrams per liter, the difficulty in trying to meet the bill's stringent standards, other requirements of the bill, a municipality's responsibilities, the bill proposing no cost to residents to comply with the bill, municipalities may be eligible for up to 75% of funding, if funding is available, the bill's devastating effect on a municipality's utilities, the bill requiring comp plans to be amended, ordinances adopted to ensure springs will be protected, he has also discussed this bill with the lobbyist and it is being strongly opposed.

Mayor Masiarczyk asked Mr. Denny to send out some bullet points to the Commission on the two (2) bills so Commissioners can voice Deltona's opposition to both bills.

**13. CITY COMMISSION COMMENTS:**

- a) Commissioner Denizac stated that she felt Tallahassee is being bought and paid for by special interest groups who could care less about the effect on communities, she thanked the Finance Department for the audit results, commended the Commission for setting forth a very conservative agenda that provides quality public services and safety and at the same time still doing more with less, she thanked Chris Bowley and Jerry Mayes for the success of her Town Hall meeting, and Commission members who attended.
- b) Commissioner Nabicht stated that the buzz word of “unfunded liability” causes concern and gets a lot of people unnecessarily excited. However, the Firefighter Pension Plan in particular is a very sound plan, and yes, there is an unfunded liability, but pension plans are long term investments and liabilities, the money going into GASB No. 68 is nothing more than another mortgage financed over 35 years, just as the City has with a bond, the Commission should not get overly excited when hearing the term “unfunded liability”, it is just an accounting term that shows up every year in the annual report, and under GASB No. 68 it will just be shown in a different format, the City’s plan has always existed, the plan is funded well, and the firefighters contribute being 8% to the plan.
- c) Commissioner Schleicher thanked Commissioner Denizac for her Town Hall meeting, she thought it went very well and was greatly attended. The Jewish Community had a wonderful Shabbat Service, next Wednesday, March 26, 2014 at the DeBary Golf & Country Club is the State of the Region luncheon providing an update of how West Volusia County is doing and what is going on in the area, reminded everyone to acquire tickets ahead of time from any one of the Chambers, the DeBary SunRail Station Open House is Saturday, March 29, 2014 at 9:00 a.m., April 1, 2014 is the opening of the Halifax Health radiology clinic on Saxon Blvd., and lastly April 5, 2014 is the Chili cook-off at Station 65, from 10:30 a.m. to 12:30 p.m.
- d) Commissioner Lowry stated that he threw out another baseball this past weekend, the 5k run was a good event, and the Wags and Whiskers Pet Fest held at the Keysville Park went really well.
- e) Vice Mayor Herzberg stated that she asked the City Manager to put Board updates that Commissioners attend on future Agenda, she recognized the Boys and Girls Club of Volusia/Flagler Counties, two (2) administrators from Deltona schools were given a tour of the Harris Saxon Boys and Girls Club, and there is talk of bringing a second club to Deltona. She discussed the River of Lakes Heritage Corridor (ROLHC), the City’s portion of the corridor by Thornby Park, the establishment of a ROLHC website [www.rolhc.org](http://www.rolhc.org), the development of unique City banners for ROLHC as part of a marketing proposal, at the last Team Volusia Economic Development Corporation (TVEDC) meeting there was discussion regarding Trader Joes announcement of a Daytona location, two (2) new private investors joining TVEDC, Daytona Beach Kennel Club and the Shores Resorts; TVEDC proposed that all entities work together in developing a coordinated methodology in bringing the film industry to Volusia County, and developing a universal County permit for when film or other major companies want to come into the County, the next Volusia League of Cities (VLC) dinner being Thursday, March 27, 2014 which the City of Port Orange is hosting, the annual awards banquet will be at the Pelican Bay Golf and Country Club, after the Executive meeting there was a joint meeting between VLC and the Volusia Council of Governments (VCOG) discussing Deltona rejoining VCOG, it being a very good discussion on the purpose of VCOG and VLC, the difference between the two (2) entities, if the two (2) organizations should be combined or not, the formally proposed eight (8) member board to discuss the future of VCOG and VLC, and how the entities would look and work in the future. She thanked staff



for an outstanding audit, and for keeping Deltona in the black.

Commissioner Denizac asked if Vice Mayor Herzberg had heard of any interesting upcoming economic development that would have a direct and positive impact on the residents of Deltona, and Vice Mayor Herzberg replied “yes” there are two (2) potential businesses in the pipeline to come to Deltona and both are in the five (5) stage business development process. One (1) project is in stage three (3) and one is in stage four (4), with stage five (5) being the announcement stage.

f) Mayor Masiarczyk stated that he applauds the efforts to bring the film industry to Volusia County, Deltona Veterans Park having been used several times for filming a local attorney’s commercials, that he has had literally hundreds of people come to the park because of an internet scavenger hunt game which sends participants on a treasure hunt throughout West Volusia County, part of the game is for them to find other attractions to add to future games so he suggested visiting Dewey O. Boster Sports Complex, he thanked the Beacon and News Journal for doing a great job of increasing the awareness of activities occurring in Deltona, he was granted an honorary title of Rabi Mayor at last Friday night’s Shabbat event and he highlighted what a great event it was in bringing all the different temples from across the County together in one night, he discussed the Finance Department staying on top of the GASB Firefighter Pension funds needed each year and coordinating with the Firefighter Pension Board on acceptable numbers, he wished everyone a happy Saint Patrick’s day, extended the Commission’s sincere condolences to Captain Brannon who recently lost his mother, and stated that he and his family will be in everyone’s prayers.

#### **14. ADJOURNMENT:**

There being no further business, the meeting adjourned at 8:14 p.m.

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**John Masiarczyk Sr., Mayor**

**ATTEST:**

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**Mitch Honaker, Deputy City Clerk**